

1 EDMUND G. BROWN JR., Attorney General
of the State of California
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4 California Department of Justice
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Sacramento, CA 94244-2550
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Facsimile: (916) 327-8643

7 Attorneys for Complainant
8

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

13 CHARMAINE MCCOY GARNER
aka CHARMAINE GARNER
14 8840 Bazemore Road
Cordova, TN 38018

15 Registered Nurse License No. 570834

16 Respondent.
17

Case No. 2007-306

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

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19 FINDINGS OF FACT

20 1. On or about June 25, 2007, Complainant Ruth Ann Terry, M.P.H., R.N., in
21 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs, filed Accusation No. 2007-306 against Charmaine McCoy Garner, also
23 known as Charmaine Garner, (Respondent) before the Board of Registered Nursing.

24 2. On or about August 23, 2000, the Board of Registered Nursing (Board)
25 issued Registered Nurse License No. 570834 to Respondent. The Registered Nurse License
26 expired on December 31, 2005, and has not been renewed.

27 3. On or about July 9, 2007, Araceli Mercado, an employee of the
28 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.

1 2007-306, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
2 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
3 which was and is 8840 Bazemore Road, Cordova, Tennessee 38018. A copy of the Accusation,
4 the related documents, and Declaration of Service are attached as exhibit A, and are incorporated
5 herein by reference.

6 4. Service of the Accusation was effective as a matter of law under the
7 provisions of Government Code section 11505, subdivision (c).

8 5. On or about August 2, 2007, the Certified Mailing was returned by the
9 U.S. Postal Service marked "Unclaimed." A copy of the envelope returned by the post office is
10 attached hereto as exhibit B, and is incorporated herein by reference. The First Class Mailing was
11 not returned and is presumed to have been received.

12 6. Business and Professions Code section 118 states, in pertinent part:

13 "(b) The suspension, expiration, or forfeiture by operation of law of a license
14 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the
15 board or by order of a court of law, or its surrender without the written consent of the board, shall
16 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the
17 board of its authority to institute or continue a disciplinary proceeding against the licensee upon
18 any ground provided by law or to enter an order suspending or revoking the license or otherwise
19 taking disciplinary action against the license on any such ground."

20 7. Government Code section 11506 states, in pertinent part:

21 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
22 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
23 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
24 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

25 8. Respondent failed to file a Notice of Defense within 15 days after service
26 upon her of the Accusation or anytime thereafter and has therefore waived her right to a hearing
27 on the merits of Accusation No. 2007-306.

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1 9. California Government Code section 11520 states, in pertinent part:

2 "(a) If the respondent either fails to file a notice of defense or to appear at the
3 hearing, the agency may take action based upon the respondent's express admissions or
4 upon other evidence and affidavits may be used as evidence without any notice to
5 respondent."

6 10. Pursuant to its authority under Government Code section 11520, the Board
7 finds Respondent is in default. The Board will take action without further hearing and, based on
8 Respondent's express admissions by way of default and the evidence before it, contained in
9 exhibits A, B and C, finds that the allegations in Accusation No. 2007-306 are true.

10 11. The total costs for investigation and enforcement are \$1,305.25 as of
11 December 4, 2007.

12 DETERMINATION OF ISSUES

13 12. Based on the foregoing findings of fact, Respondent Charmaine McCoy
14 Garner, a.k.a. Charmaine Garner, has subjected her Registered Nurse License No. 570834 to
15 discipline.

16 13. A copy of the Accusation and the related documents and Declaration of
17 Service are attached.

18 14. The agency has jurisdiction to adjudicate this case by default.

19 15. The Board of Registered Nursing is authorized to revoke Respondent's
20 Registered Nurse License based upon the following violations alleged in the Accusation:

21 a. Business and Professions Code section 2761, subdivision (a) (4)
22 (out of state discipline - Arizona and Tennessee.)

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3 **BEFORE THE**
4 **BOARD OF REGISTERED NURSING**
5 **DEPARTMENT OF CONSUMER AFFAIRS**
6 **STATE OF CALIFORNIA**

7 In the Matter of the Accusation Against:

Case No. 2007-306

8 CHARMAINE MCCOY GARNER
9 aka CHARMAINE GARNER
10 8840 Bazemore Road
11 Cordova, TN 38018

ORDER

[Gov. Code, §11520]

Registered Nurse License No. 570834

Respondent.

12 ORDER

13 IT IS SO ORDERED that Registered Nurse License No. 570834, heretofore
14 issued to Respondent Charmaine McCoy Garner, also known as Charmaine Garner, is revoked.

15 Pursuant to Government Code section 11520, subdivision (c), Respondent may
16 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
17 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
18 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
19 statute.

20 This Decision shall become effective on March 20, 2008.

21 It is so ORDERED February 19, 2008

22 *Lathane W Tate*

23 FOR THE BOARD OF REGISTERED NURSING
24 DEPARTMENT OF CONSUMER AFFAIRS

25 Attachments:

26 Exhibit A: Accusation No.2007-306, Related Documents, and Declaration of Service
27 Exhibit B: Copy of Envelope Returned by Post Office
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Exhibit A

Accusation No. 2007-306,
Related Documents and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007-306

13 CHARMAINE MCCOY GARNER,
a.k.a. CHARMAINE GARNER
14 8840 Bazemore Road
Cordova, TN 38018

ACCUSATION

15 Registered Nurse License No. 570834

16 Respondent.
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18 Complainant alleges:
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20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
23 ("Board"), Department of Consumer Affairs.

24 2. On or about August 23, 2000, the Board issued Registered Nurse License
25 Number 570834 to Charmaine McCoy Garner, also known as Charmaine Garner ("Respondent").
26 Respondent's registered nurse license expired on December 31, 2005.

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1 **CAUSE FOR DISCIPLINE**

2 **(Out-of-State Disciplinary Actions)**

3 7. Respondent is subject to disciplinary action pursuant to Code section
4 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by
5 the Arizona State Board of Nursing ("Arizona Board") and the Tennessee State Board of Nursing
6 ("Tennessee Board") as follows:

7 **Arizona Board**

8 a. On or about June 20, 2006, pursuant to the Consent to Voluntary
9 Surrender Multistate Licensure Privilege in Arizona and Cease and Desist Order No. 0603036
10 issued by the Arizona Board, in the disciplinary proceeding titled *In the Matter of the Privilege to*
11 *Practice Nursing Under the Nurse Licensure Compact in the State of Arizona Issued to:*
12 *Charmaine McCoy Garner, etc.*, Respondent voluntarily surrendered her privilege to practice
13 nursing in Arizona under the multi-state license number RN108798, issued by Tennessee, or a
14 multi-state license issued by any other state. The disciplinary action was based upon the
15 following conduct of Respondent, including, but not limited to: Using controlled substances,
16 being impaired while on duty, failing to account for narcotics/controlled substances as evidenced
17 on multiple medication administration records, failing to complete documentation on assigned
18 patients, failing to disclose to the Tennessee Board of Nursing Peer Assistance Program that she
19 was continuing to work as a nurse, and admitting she had a substance abuse problem to Arizona
20 Board staff members. A true and correct copy of the Consent to Voluntary Surrender Multistate
21 Licensure Privilege in Arizona and Cease and Desist Order No. 0603036 is attached as exhibit
22 "A" and incorporated herein by reference.

23 **Tennessee Board**

24 b. On or about September 7, 2006, pursuant to the Consent Order entered
25 into between Respondent and the Tennessee Board, in the disciplinary proceeding titled *In the*
26 *Matter of: Charmaine Garner, RN, etc.*, Respondent's license was suspended. Respondent was
27 also assessed a civil penalty in the amount of \$1,000, and ordered to pay the costs of the action in
28 an amount to be determined. The suspension was based upon the disciplinary action by the

1 Arizona Board as set forth above. A true and correct copy of the Consent Order is attached as
2 exhibit "B" and incorporated herein by reference.

3 **PRAYER**

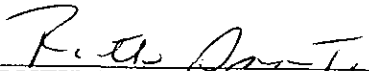
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 570834 issued
7 to Charmaine McCoy Garner, also known as Charmaine Garner;

8 2. Ordering Charmaine McCoy Garner, also known as Charmaine Garner, to
9 pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of
10 this case, pursuant to Business and Professions Code section 125.3; and

11 3. Taking such other and further action as deemed necessary and proper.

12
13 DATED: 6-25-07

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15 
16 RUTH ANN TERRY, M.P.H., R.N.
17 Executive Officer
18 Board of Registered Nursing
19 Department of Consumer Affairs
20 State of California
21 Complainant
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27 03579110-SA2006102469

28 Garner, Charmaine McCoy.acc.wpd

clp; 3/23/07

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EXHIBIT A

**Consent to Voluntary Surrender Multistate Licensure Privilege in Arizona
and Cease and Desist Order No. 0603036**



Janet Napolitano
Governor

Joey Ridenour
Executive Director

Arizona State Board of Nursing

4747 North 7th Street, Suite 200

Phoenix AZ 85014-3653

Phone (602) 889-5150 Fax (602) 889-5155

E-Mail: arizona@azbn.org

Home Page: <http://www.azbn.org>

DATE: June 21, 2006

FROM: Joey Ridenour, RN, MN, Executive Director
Arizona State Board of Nursing

SUBJECT: CHARMAINE MCCOY GARNER
Disciplinary Action by Arizona State Board of Nursing

This is to advise you that the above named nurse was disciplined by the Arizona State Board of Nursing effective June 20, 2006. The disciplinary action given was Voluntary Surrender.

Enclosure: Consent Agreement/Board Order (certified copy)

Janet Napolitano
Governor



Joey Ridenour
Executive Director

Arizona State Board of Nursing

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Phoenix AZ 85014-3653
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AFFIDAVIT OF CUSTODIAN OF RECORDS

STATE OF ARIZONA

COUNTY OF MARICOPA

I, Joey Ridenour, Executive Director for the Arizona State Board of Nursing, County of Maricopa, State of Arizona, do hereby certify that I am the officer having the legal custody for the records hereto attached in the office of the Arizona State Board of Nursing, County of Maricopa, State of Arizona, a public office of said State. The attached copies are true copies of the records on **CHARMAINE MCCOY GARNER**. Personnel of the Arizona State Board of Nursing prepared the records during the ordinary course of business.

Witness my hand and the seal of the Arizona State Board of Nursing at 4747 North 7th Street, Suite 200, Phoenix, Arizona 85014 on June 21, 2006.

SEAL

A handwritten signature in black ink that reads "Joey Ridenour". The signature is written in a cursive style.

Joey Ridenour, R.N., M.N.
Executive Director

Janet Napolitano
Governor



Joey Ridenour
Executive Director

Arizona State Board of Nursing

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TO: Regional Inspector General for Investigations
Los Angeles Field Office
600 W. Santa Ana Blvd., Ste. 1100
Santa Ana, CA 92712

California Board of Registered Nursing
1625 North Market Boulevard, Suite N-217
Sacramento, CA 95834-1924

Connecticut Board of Examiners for Nursing
Dept. of Public Health
410 Capitol Avenue, MS# 13PHO
P.O. Box 340308
Hartford, CT 06134-0328

District of Columbia Board of Nursing
Department of Health
717 14th Street, NW
Suite 600
Washington, DC 20005

Florida Board of Nursing
4052 Bald Cypress Way, BIN C02
Tallahassee, FL 32399-3252

Massachusetts Board of Registration in Nursing
Commonwealth of Massachusetts
239 Causeway Street, Second Floor
Boston, MA 02114

Michigan/DCH/Bureau of Health Professions
Ottawa Towers North
611 W. Ottawa, 1st Floor
Lansing, MI 48933

Minnesota Board of Nursing
2829 University Avenue SE
Minneapolis, MN 55414

Nevada State Board of Nursing
5011 Meadowood Mall #201
Reno, NV 89502-6547

New Jersey Board of Nursing
P.O. Box 45010
124 Halsey Street, 6th Floor
Newark, NJ 07101

New York State Board of Nursing
Education Bldg.
89 Washington Avenue
2nd Floor West Wing
Albany, NY 12234

Ohio Board of Nursing
17 South High Street, Suite 400
Columbus, OH 43215-3413

Pennsylvania State Board of Nursing
P.O. Box 2649
Harrisburg, PA 17105-2649

Rhode Island Board of Nurse
Registration and Nursing Education
105 Cannon Building
Three Capitol Hill
Providence, RI 02908

Tennessee State Board of Nursing
227 French Landing, Suite 300
Heritage Place MetroCenter
Nashville, TN 37243

Washington State Nursing Care Quality
Assurance Commission
Department of Health
HPQA #6
310 Israel Rd. SE
Tumwater, WA 98501-7864

West Virginia Board of Examiners
for Registered Professional Nurses
101 Dee Drive
Charleston, WV 25311

AZ State Board of Nursing

Date Printed: 06/21/2006

By: TRINA SMITH, INVESTIGATIONS

NAME CHARMAINE MCCOY GARNER

SSN: 426-08-9161

GENDER: F **ETHNICITY:**

DOB: 11/28/1962

PLACE OF BIRTH CITY: UNKNOWN

STATE: UNKNOWN

HOME ADDRESS

8840 Basemore Rd.

Cordova TN 38018

County: Out of State

Country:

MAILING ADDRESS

County:

Country:

BUSINESS ADDRESS

County:

Country: - -

HOME PHONE: N/A

PAGER: N/A

CELL PHONE: N/A

BUSINESS PHONE: N/A

FAX: N/A

E-MAIL:

OTHER NAMES

NAMES USED

REASON

NAMES USED

REASON

AZ LICENSE/CERTIFICATION INFORMATION:

License/Certificate Number:

License Type: COMPACT

Original Date:

Expiration/Next Renewal Date:

Last Issued Date:

Original State of Licensure/Certification:

AZ LICENSE STATUS HISTORY

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>	<u>LAST MODIFIED BY:</u>
Complaint/Self Report	03/09/2006	06/20/2006	DOLORES HURTADO
Voluntary Surrender - Privilege to Practice	06/20/2006		DOLORES HURTADO

SCHOOL INFORMATION

<u>NAME</u>	<u>LOCATION</u>	<u>NCLEX CODE</u>	<u>DEGREE OBTAINED</u>	<u>GRADUATION DATE</u>
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OTHER STATES OF LICENSURE/CERTIFICATION

<u>LIC/CERT NO</u>	<u>STATE</u>	<u>LIC/CERT TYPE</u>	<u>STATUS</u>	<u>LIC/CERT DATE</u>	<u>ORIG STATE</u>
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MOST RECENT APPLICATION INFORMATION

Year: 2006

Employment Status: 03/09/2006

Type of Nursing Position: GARNER

Major Clinical or Teaching Area in Nursing: MCCOY

Principle Field of Employment: CHARMAINE

ARIZONA STATE BOARD OF NURSING
4747 North 7th Street, Suite 200
Phoenix, Arizona 85014
602-889-5150

IN THE MATTER OF THE PRIVILEGE TO)	
PRACTICE NURSING UNDER THE NURSE)	CONSENT TO VOLUNTARY
LICENSURE COMPACT IN THE STATE OF)	
ARIZONA ISSUED TO:)	SURRENDER MULTISTATE
)	
CHARMAINE MCCOY GARNER)	LICENSURE PRIVILEGE
RESPONDENT)	IN ARIZONA AND
NURSE LICENSE NO.: RN 108798)	CEASE AND DESIST
STATE OF: TENNESSEE)	ORDER NO. 0603036

A complaint charging CHARMAINE MCCOY GARNER, ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. §32-1663 (D)(5), Respondent voluntarily surrenders her license privilege to practice under any multi-state licensure in the state of Arizona and agrees to cease and desist the practice of nursing in Arizona.

Based on the evidence before it, the Board makes the following Findings of Fact, Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds professional nurse licensure RN108798, with multi-state licensure privileges ("Privilege") under the Nurse Licensure Compact ("Compact"), issued by Tennessee (TN), a Compact State.
2. From on or about July 11, 2000, to on or about June 2, 2005, Respondent was employed by FASTAFF, a travel registry in Greenwood Village, Colorado (CO).

3. On or about March 24, 2005, while Respondent was employed by FASTAFF, Respondent tested positive on a pre-employment urine drug screen for Amphetamines and Methamphetamine, results were confirmed by GC/MS testing. Respondent submitted her voluntarily resignation on June 2, 2005.

4. From on or about September 2005, to on or about March 8, 2006, Respondent was employed as a travel nurse by On Assignment Nurse Travel, in Phoenix, AZ and was assigned to Maricopa Integrated Health System (MIHS) on the Adult Progressive Care Unit (APCU).

5. On or about March 8, 2006, APCU nursing staff assigned to work with Respondent observed that she appeared "sleepy" at the beginning of her assigned shift. APCU staff observed that Respondent had difficulty standing, swayed when she attempted to walk and was slow to react as the shift progressed. The APCU charge nurse reviewed Respondent's patient care records and discovered that Respondent failed to document any nursing care rendered during the shift, which violated the unit's standards of care and documentation policies and procedures. A review of Respondent's PYXIS profile revealed she signed out controlled substances to patients not assigned to her, and did not notify the patients assigned nurses of her actions.

6. On March 8, 2006, Respondent submitted to a for-cause urine drug screen (UDS) at the request of the APCU's nurse manager, the results were positive for cocaine, methadone, and oxycodone.

7. On or about March 8, 2006, Respondent was terminated from her travel contract with On Assignment Travel Nurse.

8. On or about March 27, 2006, an investigative questionnaire was mailed to Respondent's address of record in Cordova, TN, and it was returned unopened on April 27, 2006.

9. On or about May 12, 2006, a second investigative questionnaire and letter was mailed to Respondent's address of record and instructing her to contact Board staff. Respondent failed to respond.

10. From on or May 20, 2006, to on or about June 2, 2006, Respondent was employed by MGA Healthcare, Phoenix, AZ and assigned as a travel nurse at Paradise Valley Hospital (PVH) in Phoenix, AZ.

11. On or about June 2, 2006, Board staff reviewed randomly selected medical records of patients assigned to Respondent at PVH, which reflected the following information:

- a) On or about May 20, 2006, and on May 21, 2006, Respondent was assigned to patient MR#00930563816. A review of Respondent's Accudose profile indicated she removed the following controlled substances, Oxycodone, Carisoprolol, Lorazepam and Morphine Sulfate at various times and failed to document the administration of these medications on the medication administration record (MAR);
- b) On or about May 30, 2006, Respondent was assigned to MR#G014337488, a diabetic patient with a diagnosis of a left foot ulcer. Respondent failed to complete an integumentary assessment, date or sign her name on the patient's foot dressing and failed to document that the patient had an invasive central line catheter. Respondent Accudose record reflected she removed three doses of Phenergan 25 mg, but failed to document two doses at 1315 and 1554 on the MAR.
- c) On or about May 30, 2006, Respondent was assigned to patient MR#G014302786, with a diagnosis of left leg cellulitis. Respondent failed to document a complete physical assessment and narrative nursing notes did not reflect additional assessment information regarding the cellulitis.

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d) On or about June 1, 2006, Respondent was assigned to patient MR#G000054591, with a physician's order for "Meperidine 50 mg to 75 mg every three hours as needed for pain." A review of Respondent's Accudose profile revealed she removed a total of six doses at the following times, 0742, 0943, 1120, 1219, 1424, and 1642, a frequency that exceeded the specified time parameters and failed to document two doses (0943 and 1642) on the MAR. Respondent's Accudose profile revealed she removed Anzemet 12.5 mg but failed to document on the MAR; and documented she administered Lamotrigine 100 mg tablet instead of 150 mg, which was the correct and ordered dose.

12. On or about June 2, 2006, during an interview with Board staff, Respondent denied having a substance abuse problem and asserted the March 8, 2006 positive urine was due to someone "slipping" the medications into her drink while at a bar. Respondent asserted she self-reported to the Tennessee Board of Nursing Peer Assistance Program (TNPAP). Respondent asserted she voluntarily submitted to a substance abuse evaluation on or about April 4, 2006, and was told she should attend either an inpatient treatment or intensive outpatient program.

13. On or about June 2, 2006, Respondent submitted to a Board requested random drug screen comprehensive test, the results which were positive for Normeperidine and Meperidine, confirmed by GC/MS testing. Respondent did not have a valid prescription for Meperidine (Demerol).

14. On or about June 15, 2006, Board staff confirmed with the TNPAP's Executive Director that Respondent diagnosed as opiate dependent. The Executive Director stated at the time of Respondent's first contact with their program, she was asked not to work as a professional nurse. TNPAP's Executive Director told Board staff that Respondent was no longer eligible for their program due to a second positive drug screen, and because she continued to work as a nurse despite telling

TNPAP otherwise. Respondent's case was forwarded to the TN Board of Nursing's Investigative Department.

15. On or about June 19, 2006, Respondent met with two Board staff member. Respondent acknowledged she had a substance abuse problem and requested information on local drug treatment programs.

16. On or about June 19, 2006, Respondent requested to voluntarily surrender her privilege to practice nursing in Arizona under her multi-state privilege and agreed to cease and desist the practice of nursing in the State of Arizona.

CONCLUSIONS OF LAW

Pursuant to A.R.S. § § 32-1606, 32-1663, 32-1664, 32-1668 Article II, III and V, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute a violation of A.R.S. § 32-1601(16)(d), (g), (h), and (j), and A.A.C. R4-19-403B(1), (7), (8)(a),(b), (9), (16), (17) (18), (25)(a), (27), and (31). (Adopted and effective November 13, 2005).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. §§ 32-1663 (D) 32-1664(N) and 32-1668 Article V to take disciplinary action against Respondent's privilege to practice as a professional nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact, Conclusions of Law.

Respondent understands that she has an opportunity to request a hearing and declines to do so. Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal, or judicial review relating to this Order.

Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the

Board's file concerning this matter.

Respondent understands that the admissions in the Findings of Fact are conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

Respondent understands the right to consult legal counsel prior to entering into the Consent Agreement and such consultation has either been obtained or is waived.

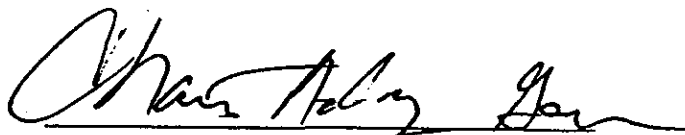
Respondent understands that this voluntary surrender is effective upon its acceptance by the Executive Director or the Board and by Respondent as evidenced by the respective signatures thereto. Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by the Respondent, the agreement cannot be withdrawn without the Executive Director or the Board's approval or by stipulation between the Respondent and the Executive Director or the Board. The effective date of this Order is the date the Voluntary Surrender is signed by the Executive Director or the Board and by Respondent. If the Voluntary Surrender is signed on a different date, the later date is the effective date.

Respondent understands that Voluntary Surrender constitutes disciplinary action. Respondent also understands that she may not reapply for reinstatement during the period of Voluntary Surrender.

Respondent agrees that she may apply for reinstatement after the period of voluntary surrender under the following conditions, and must comply with current law at the time of their application for reinstatement:

The application for reinstatement must be in writing and shall contain therein or have attached thereto substantial evidence that the basis for the voluntary surrender has been removed and that the reinstatement of the license does not constitute a threat to the public's health, safety and

welfare. The Board may require physical, psychological, or psychiatric evaluations, reports and affidavits regarding the Respondent as it deems necessary. These conditions shall be met before the application for reinstatement is considered.

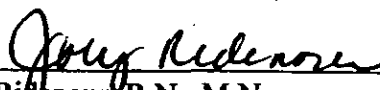


Charmaine McCoy Garner, Respondent

Date: 6/20/06

ARIZONA STATE BOARD OF NURSING

SEAL



Joey Ridenour, R.N., M.N.

Executive Director

Dated: 6/20/06

RAPPOPORT/GARNER.RN108798

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10/10/06


ORDER

Pursuant to A.R.S. § 32-1663 (D)(5) and 32-1668 Article V, the Board hereby accepts the Voluntary Surrender of the privilege to practice nursing in Arizona under the multi-state license number RN108798, issued by Tennessee. This Order of Voluntary Surrender hereby entered shall be filed with the Board and shall be made public upon the effective date of this Consent Agreement. Respondent shall not practice in Arizona under the privilege of a multi-state license issued by any other state.

IT IS FURTHER ORDERED that Respondent may apply for reinstatement of said privilege after a period of five (5) years.

SEAL

ARIZONA STATE BOARD OF NURSING

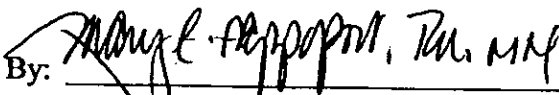

Joey Ridenour, R.N., M.N.
Executive Director

Dated: _____

6/20/06

JR/mer

Signed in the Board Office this 20th day of June, 2006.

By: 
Mary E. Rappoport, RN, MN
Nurse Practice Consultant

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EXHIBIT B

Consent Order No. 200600882



**STATE OF TENNESSEE
DEPARTMENT OF HEALTH
BUREAU OF HEALTH LICENSURE AND REGULATION
DIVISION OF HEALTH RELATED BOARDS
227 French Landing, Suite 300
Heritage Place MetroCenter
Nashville, TN 37243
tennessee.gov/health**

March 27, 2007

Christina Perchal
Legal Analyst
State of California
Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

Re: Charmaine Garner, RN License Number 108798

Dear Ms. Perchal:

I, Madeline Coleman, RN, JD, Nursing Consultant for the Tennessee Board of Nursing do hereby certify that the attached disciplinary Records for Charmaine Garner, RN License Number 108798, are a true and correct copy of the Records as they appear on file at the Tennessee Board of Nursing office located in Nashville, Tennessee.

If I can be of further assistance, I can be reached at 615-741-1943.

Sincerely,

A handwritten signature in cursive script that reads "Madeline Coleman".

Madeline Coleman, RN, JD
Nursing Consultant
Tennessee Board of Nursing

**DEPARTMENT OF HEALTH
BEFORE THE TENNESSEE STATE
BOARD OF NURSING**

IN THE MATTER OF:

**Charmaine Garner, RN
Cordova, Tennessee
TN License No. 108798**

Case No. 200600882

RESPONDENT

CONSENT ORDER

This matter came to be heard before the Tennessee Board of Nursing (hereinafter referred to as the "Board") on the 7th day of September, 2006, pursuant to the request of the Tennessee Department of Health, by and through the Office of General Counsel, and the Respondent, Charmaine Garner, (hereinafter referred to as the "Respondent") that the Board adopt this Consent Order, the terms of which have been agreed upon by the parties; as signified by their signatures below.

Respondent, Charmaine Garner, R.N., by signature to this Order, waives the right to a contested case hearing and any and all rights to judicial review of this matter.

Respondent agrees that presentation to and consideration of this Consent Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should the Consent Order not be ratified. Likewise, all matters, admissions and statements disclosed or exchanged during the attempted ratification process shall not be used against the Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

STIPULATIONS OF FACT

1. Respondent was at all times pertinent hereto licensed by the Board as a registered nurse in the state of Tennessee, having been granted license number 108798 by the Board.
2. Respondent's license bears a multi-state privilege to practice nursing in states that have entered into the Interstate Nurse Licensure Compact.
3. On or around June 20, 2006, the Arizona Board of Nursing entered an Order in which the Respondent voluntarily surrendered her privilege to practice nursing in the state of Arizona and agreed to cease and desist the practice of nursing in Arizona based upon the following:
 - a. On March 24, 2005, while employed by FASTAFF, a travel agency in Colorado, Respondent tested positive on a drug screen for Amphetamines and Methamphetamine.
 - b. On March 8, 2005, while employed by Maricopa Integrated Health System on the Adult Progressive Care Unit, Respondent appeared impaired while on duty. Respondent failed to document any care given to any of her patients and she failed to alert other nurses that she had signed out controlled substances for their patients. Respondent submitted to a drug screen and tested positive for cocaine, methadone, and oxycodone.
 - c. On March 20, 2006, Respondent contacted the Tennessee Professional Assistance Program, (hereinafter referred to as "TNPAP").
 - d. On May 2, 2006, Respondent submitted to an assessment by TNPAP. Various

treatment options were recommended for opiate dependency. TNPAP recommended that the Respondent cease from working as a professional nurse until she received treatment.

- e. Between May 8, 2006, and May 31, 2006, Respondent contacted TNPAP on approximately three (3) separate occasions stating that her insurance was not going to cover treatment and asking for her treatment start date to be postponed until July 9, 2006. On all three (3) occasions, Respondent stated that she was not working as a nurse, but rather as a landscaper, in an effort to save money.
- f. One June 2, 2006, while employed by MGA Healthcare as a travel nurse at Paradise Valley Hospital, Respondent failed to document the administration of medication she had removed from Accudose in several patient records and failed to do assessments on these patients.
- g. On June 2, 2006, TNPAP was contacted by the Arizona Board of Nursing and told that the Respondent was still working in Arizona.
- h. On June 12, 2006, TNPAP closed the Respondent's file due to her submitting two (2) positive drug screens and representing to TNPAP staff that she was not working as a nurse when in fact she was.

GROUND'S FOR DISCIPLINE

- 4. The facts stipulated to in the Stipulations of Fact are sufficient to establish that grounds for discipline of Respondent's nursing license exist. Specifically, Respondent has violated the following statutes or rules which are part of the Tennessee Nurse Practice

Act, (T.C.A. § 63-7-101, *et seq.* and TENN. COMP. R. & REGS. 1000-1-.01 *et seq.*) for which disciplinary action before and by the Board is authorized.

5. The facts in paragraph three (3) *supra*, constitute grounds for disciplinary action against Respondent's license to practice nursing in the state of Tennessee pursuant to the Tennessee Nurse Practice Act which authorizes disciplinary action against a Respondent for the following:
6. TENN. CODE ANN. § 63-7-115. Grounds for denial, revocation or suspension of certificate or license.-(a)(1) The Board has the power to deny, revoke or suspend any certificate or license to practice nursing or to otherwise discipline a licensee upon proof that the person:
 - (C) Is unfit or incompetent by reason of negligence, habits or other cause;
 - (D) Is addicted to alcohol or drugs to the degree of interfering with nursing duties;
 - (F) Is guilty of unprofessional conduct; and
 - (G) Has violated or attempted to violate, directly, indirectly, or assisted in or abetted the violation of, or conspired to violate, any provision of this chapter or any lawful order of the Board issued pursuant thereto.
7. TENN. COMP. R. & REGS. 1000-1-.13: Unprofessional Conduct and Negligence, Habits, or Other Cause.
 - (1) Unprofessional conduct, unfitness, or incompetency by reasons of negligence, habits or other causes, as those terms are used in the statute, is defined as, but not limited to, the following:
 - (j) Revocation, suspension, probation or other discipline of a license to practice nursing by another state or territory of the United States for any

act or omission which would constitute grounds for the revocation,
suspension, probation or other discipline of a license in this state.

POLICY STATEMENT

8. The Tennessee Board of Nursing is responsible for the regulation and supervision of the practice of nursing in the state of Tennessee. T.C.A. § 63-7-101 *et seq.*
9. It is the duty and responsibility of the Board of Nursing to enforce the Nurse Practice Act in such a manner as to insure that nurses use their licenses to promote and protect the public health, safety and welfare.
10. It is the policy of the Tennessee Board of Nursing to require strict compliance with the laws of this state and to apply the laws so as to preserve the quality of nursing care provided in Tennessee.
11. It is the duty and responsibility of the Tennessee Board of Nursing to promote the public health, safety and welfare by disciplining nurses who violate the provisions of T.C.A. § 63-7-101 *et seq.*

NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

12. The license of Respondent to practice as a registered nurse in Tennessee pursuant to the authority vested in the Board under TENN. CODE ANN. §§ 63-7-115 and 116 shall be and is hereby **SUSPENDED**, effective immediately upon ratification of this Order.
13. In order to lift the suspension, Respondent shall undergo an evaluation with the Tennessee Professional Assistance Program (hereinafter "TNPAP") within thirty (30)

days of the effective date of the order, shall follow the recommendations of the evaluation.


14. Should the evaluation recommend a contract with TNPAP, and once the Respondent meets the conditions to have the suspension lifted, Respondent's license shall then be placed on **PROBATION** to run concurrent with said TNPAP contract, and will continue until such time as the Respondent complies with each and every term of the contract, but shall be no less than three (3) years in duration.
15. Should Respondent's contract with TNPAP be extended, the term of probation of Respondent's license shall also be extended to the new term of the TNPAP contract.
16. Respondent agrees to limit her practice of nursing to Tennessee and not to practice in any other party state during the term of the suspension and/or probation.
17. This **SUSPENSION/PROBATION** is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (HIPDB).
18. The Respondent is hereby assessed one (1) Type A civil penalties in the amount of One Thousand Dollar (\$1,000.00) for a total of One Thousand Dollars (\$1,000.00), for violating the above listed provisions.
19. Respondent shall pay the costs of this action pursuant to TENN. COMP. R. & REGS. 1000-1-.04(12). These costs will be established by an Affidavit of Costs prepared and filed by Counsel for the Department. To the extent allowed by law, execution may issue for payment of these costs for all or any portion thereof that remain unpaid for one (1) year after the Order becomes final.
20. Costs shall be paid by means of a *certified check, cashier's check, or money order*

payable to the State of Tennessee which shall be mailed or delivered to: **Disciplinary Coordinator, the Division of Health Related Boards, Heritage Place, 227 French Landing, Suite 201, Nashville, Tennessee 37423.** A notation shall be placed on said check that it is payable for the costs of: Charmaine Garner, case no. 200600882.


21. Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to challenge or contest the validity of this Consent Order.
22. Respondent understands that by signing this Consent Order, Respondent is allowing the Board to issue its order without further process. In the event that the Board rejects this Agreed Order for any reason, it will be of no force or effect for either party.
23. A violation of this Order shall constitute a further violation of the Nursing Practice Act, TENN. CODE ANN. § 63-7-115, and is grounds for further disciplinary action by the Board.

This CONSENT ORDER approved by a majority of a quorum of the Board at a public meeting and signed this 7 day of September 2006.

FOR THE TENNESSEE BOARD OF NURSING:


Chairperson

AGREED TO:


Charmaine Garner, R.N., License No. 108798
Respondent

8/1/06
Date

PREPARED BY:



Elisha Hodge (BPR # 023287)
Assistant General Counsel
Tennessee Department of Health
Office of General Counsel
Plaza 1
220 Athens Way, Suite 210
Nashville, Tennessee 37228
(615) 741-1611

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been served upon the Respondent, Charmaine Garner, 8840 Bazemore Road, Cordova, Tennessee 38018, by placing same in the United States mail, certified, certified receipt requested, with sufficient postage thereon to reach its destination.

This 14th day of September 2006.



Elisha Hodge
Assistant General Counsel